

CIVILLE & TANG, PLLC
330 HERNAN CORTEZ AVENUE, SUITE 200
HAGĀTÑA, GUAM 96910
TELEPHONE: (671) 472-8868/69
FACSIMILE: (671) 477-2511

*Attorneys for Defendant
Nathaniel Diaz Punzalan*

FILED
DISTRICT COURT OF GUAM

NOV 20 2007 *nba*

JEANNE G. QUINATA
Clerk of Court

IN THE UNITED STATES DISTRICT COURT OF GUAM

UNITED STATES OF AMERICA,)	CRIMINAL CASE NO. 07-00075
)	
Plaintiff,)	MOTION TO WITHDRAW AS
)	COUNSEL; MEMORANDUM OF
vs.)	POINTS AND AUTHORITIES
NATHANIEL DIAZ PUNZALAN,)	
)	
Defendant.)	
)	

Counsel for Defendant Nathaniel Diaz Punzalan hereby moves this Court for an Order permitting counsel to withdraw from further representation of Defendant Punzalan. This motion is made pursuant to Model Rule of Professional Conduct 1.7 and is further based on the Memorandum of Points and Authorities below and the accompanying Declaration of Counsel.

MEMORANDUM OF POINTS AND AUTHORITIES

This prosecution involves weapons related charges against Mr. Punzalan. In preparing for trial on this matter the below counsel somewhat belatedly discovered that Roland Okada, a Superior Court Marshal, will be a critical witness at trial. *See*, Declaration of Patrick Civille, ("Civille Decl.") submitted herewith under seal. In the early stages of preparations it was not clear that Marshal Okada would be a key witness, but as the case has developed, it now appears that Marshal Okada will be a critical issue on two of the charges in the indictment. Civille Decl. ¶ 3.

While counsel believes, based on conversations with the prosecuting attorney, that the Government will call Marshal Okada as a witness, even if the Government does not, it is likely that the defendant will call upon him to testify. *Ibid.*

The role of Marshal Okada in these proceedings poses a conflict for defense counsel. The nature of the relationship between counsel and Marshal Okada is set forth in detail in the Civille Declaration filed under seal herewith.

Counsel believes that his relationship with Marshal Okada is such as to impair counsel's ability to fully and adequately defend Mr. Punzalan in this matter. *Id.* ¶ 7. The American Bar Association Model Rules of Professional Conduct (MRPC) 1.7 provides that a lawyer shall withdraw from a matter when circumstances arise which impair his ability to discharge his duty of loyalty. The relationship between defense counsel and Marshal Okada presents a conflict of interest which is of such a nature that counsel's continued representation of Mr. Punzalan would be inappropriate. Counsel therefore requests leave to withdraw from this matter.

Counsel has advised Rosetta San Nicolas of the United States Attorney's Office of this conflict and Ms. San Nicolas stated that she does not oppose the motion. Civille Decl. ¶ 9.

Respectfully submitted on November 20, 2007.

CIVILLE & TANG, PLLC

By: 
G. PATRICK CIVILLE